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HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR
DIVISION BENCH

CORAM : HON'BLE SHRI H.L. DATTU, CJ &
HON'BLE SHRI V.K. SHRIVASTAVA, J.

MISC. APPEAL (C) NO. 382 OF 2007

APPELLANT

Dheluram Chelak, Age - about 35 years. S/o Judhawn Chelak, R/o Village Dhansuli, Post - Nardaha, Thana - Mandirhasod, Tahsil and District, Raipur (CG)

Versus

RESPONDENTS

- 1) Rajesh Kumar, S/o - Laxman Singh, R/o Hora Transport Company, Pvt. Lts., mandirhasod, Tahsil and District, Raipur (CG)
- 2) Hora Transport Company, Pvt.Ltd., Through - Managing Director - Hora Transport Company, Pvt Ltd., R/o Mandirhasod, Tahsil and District, Raipur (CG)
- 3) The United India Insurance Co.Ltd. Through - Divisional Manager, Division Office Katchery chowk, Jail road, District - Raipur (CG)

Present : Ms Madhumita Singh, counsel for the appellant.

None for the respondents.

ORAL ORDER

(Passed on 2nd April, 2007)

The following oral order of the Court was passed by
Vijay Kumar Shrivastava, J.

This is an appeal filed by the claimant/appellant under Section 173 of the Motor Vehicle Act 1988 (henceforth "the Act") for enhancement of compensation against the award dated 31.08.2006, passed by Eleventh Additional Motor Accident Claim Tribunal, (FTC), Raipur (CG) (henceforth "the Tribunal") in claim case No.47/2005, whereby compensation of Rs.52,851/- has been awarded to him.

2) Factual matrix of the case, in brief, is that on 31.03.2005 appellant riding his motor bike was going from Raipur to Dhansuli along with his wife and children. Respondent No.1 left his truck bearing No.CG-04-G-0297 (hence forth "the offending vehicle") on the road, appellant met with an accident, having struck his motor bike with back of the offending vehicle. Appellant received injuries. Respondent No.2 is the owner of the offending vehicle, whereas it was insured with respondent No.3. Appellant filed an application under Section 166 of the Act for compensation against the respondents, who are driver, owner and insurer of the offending vehicle. All the respondents contested the claim. Respondent No.3 took a specific defence that appellant himself was driving his motor bike in a rash and negligent manner and was responsible for the accident.

3) The Tribunal hold negligence on the part of appellant 25%, therefore, reducing 25% of the compensation amount, passed impugned award as below :

a)	loss of income	Rs.25,000/-
b)	physical and mental sufferings	Rs. 5,000/-
c)	medical expenses	Rs.47,667/-
	Total	Rs.70,467/-
	Reduced 25%	Rs.17,616/-
	Amount of award payable	Rs.52,851/-

4) Heard learned counsel for the appellant who contended that the compensation awarded by the Tribunal is not just and proper.

5) We have gone through the award passed by the Tribunal. It is evident that for rash and negligent driving, offence was registered against the appellant; he pleaded his guilt and was sentenced to pay a fine of Rs.500/-. The Tribunal held negligence on the part of appellant 25% on the ground that appellant was driving light motor vehicle. We are afraid to accept such finding to be correct, yet we do not want to step in to adjudicate its correctness in absence of any challenge to its legality.

6) No medical officer has been examined by the appellant to prove his injuries or to support any permanent disability. No substantial legal evidence was laid to support income of the



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appellant. However, it appears that on compassionate ground Tribunal allowed compensation as mentioned above.

7) Finding of fact recorded by the Tribunal does not appear to be illegal or infirm which may call for interference of this Court. In the result, the appeal is liable to be dismissed and is accordingly dismissed *in limine*. No costs.

**Sd/-
Chief Justice**

**Sd/-
V.K. Shrivastava
Judge**